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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/299,684	04/26/1999	NINA T. BHATTI	10982229-1	3580

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EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.
09/299,684Applicant(s)
Bhatti et al.Examiner
Stephan WillettArt Unit
2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 9, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

DETAILED ACTION

Title Change

1. The title change is acceptable.

Drawings

2. The drawings are objected to because of the informalities noted on the attached PTO 948. Correction is required.
3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 103

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).
5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lakshman et al. with Patent Number 6,269,0781 in view of Mogul et al. with Patent Number 6,243,761.

7. Regarding claim(s) 1, 9, Lakshman teaches a computer network that varies the quality of video. Lakshman teaches storing or creating data files that are less resource intensive, col. 5, lines 20-22. Lakshman teaches modifying a resource request, col. 4, lines 64-65 to obtain an adapted content when the server is over loaded, col. 6, lines 27-28. Lakshman teaches the invention in the above claim(s) except for explicitly teaching a decreased quality of data. In that Lakshman operates to transfer differing rates of data, the artisan would have looked to the computer network data modifying transmission arts for details of implementing varying qualities of data. In that art, Mogul, a related network data transmission system, teaches "a server, to automatically adjust content", col. 5, lines 47-48 in order to meet "the currently available bandwidth of the communication path between the server and client", col. 5, lines 48-49. Mogul specifically teaches "the HTTP server can convert some or all of the images on the page to a lower resolution form", col. 7, lines 34-35 and load dependents, col. 9, lines 52-53. A less resource intensive data form that is prestored is taught. Further, Mogul suggests "the server can suppress the images", col. 5, lines 64-65 to lesson the content. The motivation to incorporate lower quality stored content insures that network bandwidth limits are not exceeded. Thus, it would have been obvious to one of ordinary skill in the art to incorporate varying stored quality as taught in Mogul into the variable rate system described in the Lakshman patent because Lakshman operates with varying quality data and Mogul suggests that optimization can be

obtained with less quality. Therefore, by the above rational, the above claim(s) are rejected.

8. Regarding claims 2, 6, 10, Mogul teaches transmitting full content, col. 5, lines 58-61.

Thus, the above claim limitations are obvious in view of the combination.

9. Regarding claims 3, 11, 15, Lakshman teaches monitoring network loads, col. 11, lines 21-24. Thus, the above claim limitations are obvious in view of the combination.

10. Regarding claims 4, 14, Lakshman teaches adapting the content based on the load, col. 4, lines 64-65. Thus, the above claim limitations are obvious in view of the combination.

11. Regarding claims 5, Lakshman teaches a predetermined load value as a desired cell rate, col. 4, lines 54-55. Thus, the above claim limitations are obvious in view of the combination.

12. Regarding claims 7-8, 12, 13, Mogul teaches modifying a URL based on an index or library, col. 9, lines 40-44. Thus, the above claim limitations are obvious in view of the combination.

Response to Amendment

13. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

14. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the cited portions of the references and relevant portions of the reference.

15. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

16. Applicant suggests “when the content server is in an overload condition, the adaptive load control system modifies [an] access request ” Paper No. 7, Page 6, lines 10-11. However, Lakshman teaches modifying a resource request, col. 4, lines 64-65 to obtain an adapted content when the server is over loaded, col. 6, lines 27-28 and in Mogul load dependents, col. 9, lines 52-53.. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is suggested. The other references cited teach numerous other ways to send reduced content, thus a close review of them is suggested.

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

19. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart, can be reached on (703) 305-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

22. Any inquiry of a general nature or relating to the status of this application or proceeding

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should be directed to the receptionist whose telephone number is (703) 305-9605.

sfw

November 13, 2002

A handwritten signature in black ink, appearing to read 'Le Hien Luu', with a long horizontal line extending to the right.

LE HIEN LUU
PRIMARY EXAMINER